UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,761	01/29/2001	Jeff A. Zimniewicz	MS160268.1	8645

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EXAMINER
YIGDALL, MICHAEL J

ART UNIT	PAPER NUMBER
2192	

NOTIFICATION DATE	DELIVERY MODE
09/24/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/771,761	ZIMNIEWICZ ET AL.
	Examiner	Art Unit	
	Michael J. Yigdall	2192	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>17 July 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because
    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);
    (b)☐ They raise the issue of new matter (see NOTE below);
    (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.
        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
    The status of the claim(s) is (or will be) as follows:
    Claim(s) allowed: _____.
    Claim(s) objected to: _____.
    Claim(s) rejected: *1-4,6-18,20-26 and 28-31*.
    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

Continuation of 11.

Applicant's arguments have been fully considered but they are not persuasive.

With respect to the proposed amendments to independent claims 1, 25 and 26, Applicant contends that the references fail to teach or suggest that "at least one shared component automatically subsumes one or more installation properties associated with previously installed shared components" (remarks, pages 11-12).

However, the examiner does not agree with Applicant's conclusion. Applicant characterizes Noble such that "the properties transferred to the new software release are related to executing and utilizing the application" and "are not within [the] realm" of the recited "installation properties" (remarks, pages 11-12). However, the customizations or properties in Noble are properties of the installation, and are transferred to the new release when the new release is installed (see, for example, column 6, lines 45-62). Such properties are reasonably interpreted as "installation properties." Furthermore, Applicant refers to the recited "reference count" as an example of an installation property (remarks, page 12), which was addressed in the final Office action with reference to Kruger. The proposed amendments do not materially reduce or simplify the issues for appeal and thus will not be entered.

With respect to independent claim 13, Applicant contends that Curtis does not teach or suggest "a separate installation of the at least one shared component being implemented for each dependent component that depends on the at least one shared component" (remarks, page 12).
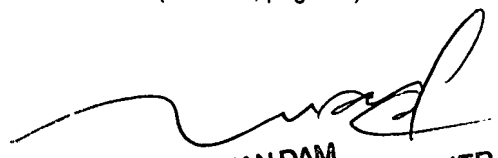
However, as Applicant acknowledges, "Curtis discloses a valid order in which dependent components must be installed before depending programs are installed" (remarks, page 13). Stated in terms of the claim, Curtis thus discloses a valid installation order in which shared components must be installed before dependent components are installed. Therefore, Curtis teaches a separate installation of the shared components. Indeed, Curtis teaches that each shared component is separately installed (see, for example, column 12, lines 32-50). Furthermore, as the examiner noted in the interview held on June 14, 2007, language such as that for which Applicant argues here includes the case where there is only one "dependent component that depends on the at least one shared component." The language of the claims does not patentably distinguish them over the references.

With respect to independent claims 23 and 24, Applicant contends, "Taylor fails to disclose the shared component for the first dependent component is installed in the first part of the installation," and contends, "Taylor also fails to disclose a second installation in which the shared components are installed for each of the other dependent components" (remarks, page 14). Applicant also makes a general allegation that one skilled in the art "would not arrive at the proposed combination unless guided by a hindsight reading of the subject disclosure" (remarks, page 14).

However, Curtis teaches the installation of shared components for a dependent component (see, for example, column 12, lines 32-50). Curtis does not expressly disclose merely that such installations are performed "during a first part of the installation" and that the shared components are installed for other dependent components "during a second part of the installation separate from the first part." Nonetheless, as set forth in the final Office action, Taylor suggests such first and second parts of the installation to those of ordinary skill in the art. For example, Taylor discloses, "Since a dependent package may also be a dominant package, the flow of operations in the invention are layered to add additional entries on the action list for additional dependent packages dependent from a dominant package that is dependent from another dominant package" (column 2, lines 7-11). Moreover, as indicated above, the language of the claims includes the case where there is only one dependent component (i.e., "a first dependent component"). In such a case, the shared component is not installed during the second part of the installation because there are no "other dependent component[s]." Again, the language of the claims does not patentably distinguish them over the references.

With respect to independent claim 31, Applicant refers to arguments addressed above (remarks, page 14).

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TUAN DAM
SUPERVISORY PATENT EXAMINER

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